

iii. A risk written under a single policy covering more than one risk which policy generates an annual premium in excess of \$10,000.

(b) Except as otherwise required by the provisions of this chapter or as may be ordered by the Commissioner, the requirements and procedures found in subchapters 2 and 3 above shall not apply to special risks.

#### 11:13-4.2 Reporting requirements

(a) Expense experience statistics with respect to special risks written by an insurer shall be maintained in accord with subchapter 3 of this chapter and shall be reported promptly to the Department upon request.

(b) The Commissioner may require the filing of such additional reports as he deems necessary to implement the provisions of the Commercial Insurance Deregulation Act of 1982 and this chapter.

#### 11:13-4.3 Examination

The underwriting files, premium, loss and expense statistics, financial and other records with respect to special risks written by an insurer shall be maintained in such detail as may be required by the Commissioner and shall be subject to examination by the Commissioner or his designee in the State as often as deemed necessary by the Commissioner.

### SUBCHAPTER 5. PROCEDURE FOR THE REGULATION OF CONSENT TO HIGHER RATE FILINGS

#### 11:13-5.1 Higher rate filings

(a) N.J.A.C. 11:4-7 including all subsequent amendments and supplements is hereby adopted as a rule with the modification indicated in (b) below.

1. This document is available for review at or may be purchased from the New Jersey Department of Banking and Insurance, 20 West State Street, PO Box 325, Trenton, New Jersey 08625.

(b) The following are modifications to the rule referenced in (a) above:

1. Reference to N.J.S.A. 17:29AA-22 contained in N.J.A.C. 11:4-7.1(b)11 is deleted and replaced with N.J.S.A. 17:29AA-26.

Amended by R.1997 d.521, effective December 15, 1997.

See: 29 N.J.R. 4248(a), 29 N.J.R. 5310(a).

Amended by R.2002 d.101, effective April 1, 2002.

See: 33 N.J.R. 1875(a), 34 N.J.R. 1431(b).

In (b)1, deleted exhibits.

Amended by R.2003 d.21, effective January 6, 2003.

See: 34 N.J.R. 2947(a), 35 N.J.R. 252(a).

Rewrote (a)1.

### SUBCHAPTER 6. COMMERCIAL INSURANCE RATING PLANS

#### 11:13-6.1 Purpose and scope

(a) This subchapter establishes standards for commercial insurance rating plans to modify rates in the development of premiums for specific risks.

(b) These standards are intended to:

1. Recognize expected loss differentials based on factors applied using sound underwriting principles;
2. Promote competition among insurers in the rating of individual commercial risks;
3. Promote fair and equitable treatment of insureds; and
4. Encourage loss control and safety measures.

(c) This subchapter applies to all insurers and rating organizations or advisory organizations that file rates for commercial lines insurance.

Amended by R.2003 d.21, effective January 6, 2002.

See: 34 N.J.R. 2947(a), 35 N.J.R. 252(a).

In (c), inserted "or advisory organizations" following "rating organizations".

#### 11:13-6.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

"Base rate" means the unit charge by which the measure of exposure or the amount of insurance specified in a policy of insurance or covered thereunder is multiplied to determine the premium, which rate is filed with the Commissioner pursuant to N.J.S.A. 17:29AA-5.

"Commercial lines insurance" includes all insurance policies so defined in N.J.S.A. 17:29AA-3a.

"Commissioner" means the Commissioner of the New Jersey Department of Banking and Insurance.

"Department" means the New Jersey Department of Banking and Insurance.

"Filer" means a rating organization or advisory organization or any insurer making its own rates and proposing to establish a new rate, a rate change, or a rating rule.

"Commercial insurance rating plan" includes any plan of rates and rules for the adjustment of premiums from base rates for commercial lines insurance coverages.

"Policy" means any contract of commercial lines insurance including, but not limited to, all policies, contracts, certificates and endorsements.

"Supplementary rate information" includes any manual or plan of rates, statistical plan, classification, rating schedule, rating rule and any other rule used by an insurer in making rates.

Amended by R.1997 d.521, effective December 15, 1997.

See: 29 N.J.R. 4248(a), 29 N.J.R. 5310(a).

Amended "Commissioner" and "Department".

Amended by R.2003 d.21, effective January 6, 2003.

See: 34 N.J.R. 2947(a), 35 N.J.R. 252(a).

In "Filer", inserted "or advisory organizations" following "rating organization".

### 11:13-6.3 Commercial insurance rating plans

(a) Filers may submit commercial insurance rating plans that provide for modification of rates in the development of premiums for specific risks.

(b) A commercial insurance rating plan shall be filed with the Commissioner in accordance with N.J.S.A. 17:29AA-5 and this subchapter.

(c) No insurer shall charge or collect from any insured a premium for any commercial lines insurance policy that deviates from the base rates filed with the Commissioner, except in accordance with a commercial insurance rating plan filed with the Commissioner in accordance with this subchapter.

Amended by R.1997 d.521, effective December 15, 1997.

See: 29 N.J.R. 4248(a), 29 N.J.R. 5310(a).

Deleted (c) and recodified (d) as (c).

### 11:13-6.4 Elements of plan

(a) A commercial insurance rating plan shall consist of rating rules that set forth the following:

1. The criteria for an insured's eligibility for premium modification as described in the plan;
2. A list or lists of underwriting factors and such descriptive statements or explanations as may be necessary to understand the application or use of each factor;
3. The maximum debit for each factor;
4. The maximum credit for each factor; and
5. The total maximum debits and credits for all factors combined.

### 11:13-6.5 Standards for commercial insurance rating plans

(a) Underwriting factors described in the plan shall be reasonably related to an increase or decrease in the risk expected.

(b) Maximum debits for each underwriting factor in the plan shall equal maximum credits for each underwriting factor in the plan on a percentage basis except when equal maximum credits and debits are clearly not appropriate and the filer of the plan provides a written explanation.

(c) An individual risk premium modification plan shall provide for a maximum 25 percent debit or credit from base rates for any single policy. This limitation shall not apply to experience and retrospective rating plans or expense modifications.

Amended by R.1992 d.492, effective December 7, 1992.

See: 24 N.J.R. 2830(a), 24 N.J.R. 4408(a).

Text at (a) regarding premium modification deleted.

### 11:13-6.6 Application or use of commercial insurance rating plans

(a) Commercial insurance rating plans shall not be used in a manner that results in excessive, inadequate or unfairly discriminatory rates.

(b) Commercial insurance rating plans shall be applied uniformly to all insureds who qualify for debits or credits in accordance with the plan as filed.

(c) No individual policy premium shall be modified until the debits and credits applicable to both risk and expense modification in accordance with the commercial insurance rating plan are determined by an inspection of the property.

(d) Insurers shall develop and retain information in their underwriting file about the application of a commercial insurance rating plan to any modification of an individual policy premium. This shall include any information used to determine the eligibility for debit or credit in accordance with the filed plan, such as inspection reports, photographs, results of engineering or professional evaluations, claim history, etc.

(e) Insurers shall make this information available for examination by the Department, or supply it to the Department within 10 days of receipt of a written request.

## SUBCHAPTER 7. COMMERCIAL LINES INSURANCE: POLICY FORM STANDARDS

### 11:13-7.1 Purpose and scope

(a) These rules interpret provisions of the Commercial Insurance Deregulation Act, N.J.S.A. 17:29AA-1 et seq. and set standards for the acceptance or disapproval of policy forms submitted pursuant to N.J.S.A. 17:29AA-6. These standards are established pursuant to N.J.S.A. 17:29AA-11, which prohibits forms which are unfair, inequitable, misleading or contrary to law, or which produce rates that are excessive, inadequate or unfairly discriminatory.

(b) These rules do not apply to policy forms not required to be submitted by N.J.S.A. 17:29AA-6, which with some exceptions does not require the filing of policy forms insuring "special risks" as defined in N.J.S.A. 17:29AA-3k. These rules do not apply to policy forms issued by eligible surplus lines insurers in accordance with the Surplus Lines Law, N.J.S.A. 17:22-6.40 et seq. Nothing in these rules shall, however, authorize the acceptance or use, or prohibit the disapproval, of a policy form that is otherwise prohibited by another law or rule.